

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In the Matter of:	:	
	:	
	:	Chapter 7
MASOUD AHMADZAI	:	
	:	Case No. 17-13671-KHK
Debtor.	:	
	:	
	:	
TAHMINA OSMAN,	:	Adv. Proc. _____
	:	
Plaintiff	:	
	:	
v.	:	
	:	
MASOUD AHMADZAI	:	
	:	
Defendant	:	
	:	

**COMPLAINT OBJECTING TO
DISCHARGEABILITY OF DEBT**

Comes now Tahmina Osman (“Osman” or “Plaintiff”), by and through counsel, and files this Complaint objecting to the dischargeability of a certain debt owed to her by the Debtor, Masoud Ahmadzai, pursuant to 11 U.S.C. § 523. In support of this Complaint the following representations are made:

JURISDICTION AND VENUE

1. This Court had jurisdiction to hear and decide this matter. 28 U.S.C. § 1334.

2. This is a core proceeding. 28 U.S.C. § 157(b)(2)(J); Bankruptcy Rule 7008(a).

3. Plaintiff has standing to object to a dischargeability of a debt. 11 U.S.C. § 523; Bankruptcy Rule 4007(a).

THE PARTIES

4. The Plaintiff, Tahmina Osman, is an individual and creditor in this proceeding, holding a claim asserted against the Debtor herein arising from her investment of monies with the Debtor and his corporation, A and S, Inc., which were fraudulently converted to the Debtor's own use.

5. The Defendant, Masoud Ahmadzai, ("Ahmadzai" or the "Debtor"), is an individual and Debtor in this Chapter 7 proceeding.

FACTUAL BACKGROUND

6. The Debtor commenced his proceeding by filing a voluntary Chapter 7 petition on October 31, 2017.

7. In the Fall of 2012, the Debtor, then a manager at a SunTrust Bank branch, approached and talked to Osman, a SunTrust Bank account holder at his branch, on multiple occasions.

8. Ahmadzai solicited monies from Osman by advising her that he could provide her with a higher rate of return than SunTrust by investing her money through his company, A and S, Inc., in Verizon Fios assets.

9. Based on Ahmadzai's representations, on November 6, 2012 Osman directed

that Two Hundred and Thirty Thousand and No/100 Dollars from her CD Account at SunTrust Bank be paid over to Ahmadzai. See copy of CD and IRA Withdrawal form attached as Plaintiff's Exhibit No. 1.

10. At the time of the transfer of funds, Ahmadzai drafted and had the parties execute a one-page agreement stating that Osman would be paid back her \$ 230,000.00 plus interest at a rate of 5.0% per annum after five years. A copy of the agreement is attached as Exhibit No. 2.

11. Ahmadzai never used any of Osman's funds to acquire Verizon Fios stock or assets but rather, as he claimed at the Creditors' Meeting held on December 7, 2017, spent the funds to purchase used automobiles which were allegedly shipped to Afghanistan for sale.

12. Ahmadzai, at the Creditors' Meeting held on December 7, 2017, testified that Osman's funds were lost when the Taliban attacked and destroyed his used car operation in Afghanistan in July, 2015.

13. On November 7, 2017, the due date under the parties' agreement, Ahmadzai failed to pay Osman any part of her \$230,000.00 investment or \$ 57,500.00 in interest.

Count I - Objection to Dischargeability - 11 U.S.C. § 523(a)(2)

14. The allegations set forth in paragraphs 1 through 13 are incorporated by reference and made a part hereof.

15. At the time Ahmadzai convinced Osman to invest \$ 230,000.00 in his

company with the promise that Verizon Fios stock would be purchased, he knew he was instead going to use her monies in the much more risky enterprise of shipping used automobiles to Afghanistan for sale.

16. Osman relied upon Ahmadzai's representation that he would be investing her monies in Verizon Fios when deciding to turn over her life savings to Ahmadzai.

17. Ahmadzai made the misrepresentation to Osman intentionally and with the intent to mislead Osman into entering an investment arrangement with Ahmadzai's company.

18. The actions of Ahmadzai in obtaining money from Osman as described hereinabove constitute an act of obtaining money by false pretenses, a false representation or actual fraud; accordingly, the losses suffered by Osman as a result of Ahmadzai's actions are non-dischargeable pursuant to 11 U.S.C. § 523(a)(2).

Count II - Objection to Dischargeability - 11 U.S.C. § 523(4)

19. The allegations set forth in paragraphs 1 through 18 are hereby incorporated by reference and made a part hereof.

20. By approaching Osman and persuading her to invest in his company, Ahmadzai had a fiduciary obligation to properly handle Osman's funds.

21. Upon information and belief Ahmadzai made no effort to invest Osman's monies in any kind of business enterprise but rather utilized the funds for his own personal expenses.

22. The actions of Ahmadzai in improperly using Osman's monies constitute fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny; accordingly the losses suffered by Osman as a result of Ahmadzai's actions are non-dischargeable pursuant to 11 U.S.C. § 523(a)(4).

WHEREFORE, Osman prays that this Honorable Court find and determine that her claim for \$ 287,500.00 is non-dischargeable, and that this Court enter an order denying dischargeability of such debt, and that Osman have such other and further relief as this Court may deem just.

TAHMINA OSMAN

By Counsel

Dated: February 5, 2018

/s/ Andrew G. Lawrence

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of February, 2018, the following persons were or will be served with a copy of the foregoing Complaint Objecting to Dischargeability of Debt electronically via the CM/ECF system or by first class mail, postage pre-paid:

Donald F. King, Trustee
1775 Wiehle Avenue - Suite 400
Reston, Virginia 20190

Madeline A. Trainer, Esquire
510 King Street - Suite 301
Alexandria, Virginia 22314

Masoud Ahmadzai
7363 Stream Bluff Way
Springfield, Virginia 22153

/s/ Andrew G. Lawrence

Andrew G. Lawrence